IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16362 of 2004

Between:

A.Nagabhushanam S/o. A.Narayanappa,
D.No.13/724-C, 11, RTC Driver, Near Ganga Gowri Theatre, Ananthapur,
Ananthapur District.

..... PETITIONER

AND

1.The Depot Manager, A.P.S.R.T.C., Dharmavaram Depot,

Anantapur District.
2.The Principal Secretary, Government of Andhra Pradesh

(Labour Employment Training and Factories Lab-1)

Department, Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Mandamus declaring the letter No.2642/Lab.I/A2/2002-1 dated 15.3.2003 of the 2nd respondent in refusing to refer the matter to labour court for adjudication under Section 12 (5) of Industrial Disputes Act, as illegal, arbitrary, unjustified, unsustainable and set-aside the same, and consequently direct the 2nd respondent to refer the matter to Labour Court for adjudication.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondent No.1: MR.P.VINAYAKA SWAMY, Standing Counsel for A.P.S.R.T.C.

Counsel for the Respondent No.2: Govt. Pleader for Labour.

The Court at the stage of admission made the following :

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THE HONOURABLE DR.JUSTICE G.YETHIRAJULU

WRIT PETITION No.16362 OF 2004

ORDER:

The petitioner is working as a driver in the first respondent-Corporation. He was imposed a penalty of stoppage of two increments with cumulative effect. He preferred an appeal to the concerned authority and the said appeal was rejected. Later, he filed a review petition before the Regional Manager of the Corporation and it was also rejected on 16.04.2001. The petitioner subsequently filed an application under Section 2 (k) of the Industrial Disputes Act, 1947 on 07.08.2002 to the Assistant Commissioner of Labour through the Employees' Union. The Assistant Commissioner of Labour submitted failure report of conciliation under Section 12(5) of the Industrial Disputes Act and subsequently, the second respondent passed an Order on 15.03.2003 by observing that the dispute raised by the Union does not merit reference for adjudication as it was raised after a lapse of more than five years by following an unreported judgment of this Court in W.P.No.2206 of 2000.

2. The learned Counsel for the petitioner relied on a Judgment of the Supreme Court in support of his contention. I n *Ajaib Singh v. Sirhind Co-op. Marketting-cum-Processing Service Society Limited and another ,* the Supreme Court held that the provisions of Article 137 of the Schedule to the Limitation Act, 1963 are not applicable to the proceedings under the Industrial Disputes Act, 1947 and the relief under the Act cannot be denied to the workman merely on the ground of delay.

3. In the light of the above judgment of the Supreme Court, the ground on which the impugned order passed cannot sustain. The second respondent also committed an error in showing the period from the date of initial order instead of showing the period from the date of rejection of review petition on 16.04.2001.

4. In the light of the above circumstances, the order of the second respondent dated

15.03.2003 is set aside. The second respondent is accordingly directed to refer the matter to the Labour Court for adjudication under the provisions of the Industrial Disputes Act, 1947 within two months from the date of receipt of a copy of this Order.

5. The Writ Petition is accordingly allowed. No costs.

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Dr.G.YETHIRAJULU, J

Date:16th September, 2004.

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Sixteenth day of September, Two Thousand and Four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The Depot Manager, A.P.S.R.T.C., Dharmavaram Depot,

Ananthapur District.

2.The Principal Secretary, Government of Andhra Pradesh (Labour

Employment Training and Factories Lab-1) Department,

Secretariat Buildings, Hyderabad.

3.Two C.Cs. to the Government Pleader for Labour, High Court

Buildings, Hyderabad. (O.U.T.)

4.Two C.D. copies.